AMENDMENT UNDER 37 C.F.R. 1.116

EXPEDITED PROCEDURE

EXAMINING GROUP 2177

PATENT

Serial No. 09/867,582

Attorney Docket No. 1005-007

REMARKS

Reconsideration of this application is respectfully requested in light of the following remarks. Claims 1-3 are now pending in this application. Claims 1-3 are the independent claims.

I. The Objection to the Abstract

The Abstract was objected to because it allegedly "contains the term 'comprising'". Applicant respectfully submits that the term "comprising" does not appear in Applicant's copy of the Abstract, and Applicant respectfully requests that evidence supporting the objection be provided. If no such evidence is available, reconsideration and withdrawal of the objection to the abstract is respectfully requested.

II. The Anticipation Rejection

Claims 1-3 were rejected as anticipated under 35 U.S.C. §102(e). In support of the rejection, Wood (U.S. Publication No. 20020045154) was cited. This rejection is respectfully traversed.

As explained in the Reply filed on 15 January 2004, Wood et al. fails to establish a prima facie case of anticipation.

In light of the current Office Action, it is particularly noteworthy that, as **mandated** by MPEP 2111.01, the words of a claim "**must** be given their plain meaning **unless** applicant has provided a clear definition in the specification". Here, the claim term "bestfit clustering" clearly has been defined in the specification, and **that definition must control examination** of those claims that recite "bestfit clustering".

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Specifically, each of claims 1-3 recite "refining a survey via bestfit clustering". The specification of the current application, at page 12, lines 12-14, defines "bestfit clustering" as a "segmentation algorithm that maximizes 'fit' as the **(weighted) number of questions** for which a respondent's answers correspond to the **mode** of responses of that particular respondent's segment."

Wood et al. does not teach expressly or inherently "bestfit clustering" or a "mode of responses". Instead, Wood at most allegedly recites "a node" that is "defined as **weighted averages** of dimensions and user traits". See Wood at page 8, paragraphs 182-188. Wood does not teach expressly or inherently that these "dimensions and user traits" are "questions" or relate to "answers" that "correspond to the mode of responses". In fact, Wood makes no mention of a "mode" in the statistical sense whatsoever. Further, Wood's "weighted averages of **dimensions**" are not a "weighted **number** of questions".

Accordingly, it is respectfully submitted that the rejection of claims 1-3 is unsupported by Wood et al. and should be withdrawn.

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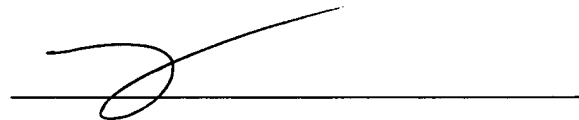
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CONCLUSION

It is respectfully submitted that, in view of the foregoing amendments and remarks, the application as amended is in clear condition for allowance. Reconsideration, withdrawal of all grounds of rejection, and issuance of a Notice of Allowance are earnestly solicited.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. §1.16 or §1.17 to Deposit Account No. 50-2504. The Examiner is invited to contact the undersigned at 434-972-9988 to discuss any matter regarding this application.

Respectfully submitted,

Michael Haynes PLC

Date: 7 July 2004

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